



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL



OFFICE OF AUDIT SERVICES, REGION I
JFK FEDERAL BUILDING
15 NEW SUDBURY STREET, ROOM 2425
BOSTON, MA 02203

May 21, 2012

Report Number: A-01-11-00515

Ms. Jennifer Parks
Chief Integrity and Compliance Officer
Fletcher Allen Health Care, Inc.
1 South Prospect Street
Burlington, VT 05401

Dear Ms. Parks:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Fletcher Allen Health Care Did Not Always Bill Correctly for Evaluation and Management Services Related to Eye Injection Procedures*. We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Kimberly Rapoza, Audit Manager, at (617) 565-2695 or through email at Kimberly.Rapoza@oig.hhs.gov. Please refer to report number A-01-11-00515 in all correspondence.

Sincerely,

/Michael J. Armstrong/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Nanette Foster Reilly
Consortium Administrator
Consortium for Financial Management & Fee for Service Operations
Centers for Medicare & Medicaid Services
601 East 12th Street, Room 355
Kansas City, MO 64106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**FLETCHER ALLEN HEALTH CARE
DID NOT ALWAYS BILL
CORRECTLY FOR EVALUATION
AND MANAGEMENT SERVICES
RELATED TO EYE INJECTION
PROCEDURES**



Daniel R. Levinson
Inspector General

May 2012
A-01-11-00515

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC

at <http://oig.hhs.gov>

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Medicare Part B reimburses hospitals and physicians for certain eye injection procedures administered to program beneficiaries when the procedures are performed in hospital outpatient settings. In addition to the reimbursement for the injection procedure, hospitals and physicians may be eligible for an additional payment for a separate evaluation and management (E&M) service when the service is significant, separately identifiable, and above and beyond the usual preoperative work of the eye injection procedure (*Medicare Claims Processing Manual*, Pub. No. 100-04, chapter 12, section 30.6.6(B)). E&M services are visits and consultations furnished by physicians during which they examine the patient and decide how to manage the patient's illness.

Fletcher Allen Health Care, Inc. (the Hospital), is a 419-bed teaching hospital located in Burlington, Vermont. The Hospital bills Medicare for the overhead associated with outpatient medical services performed at the Hospital and bills on behalf of its physicians for the professional services that they perform in the Hospital's outpatient settings.

Our current review is the result of findings identified in a previous Office of Inspector General (OIG) review at the Hospital that was part of a series of OIG reviews of Medicare payments to hospitals for selected claims for inpatient and outpatient services. In June 2011, we issued a report entitled *Medicare Compliance Review of Fletcher Allen Health Care for Calendar Years 2008 and 2009* (A-01-10-00527). We found that the Hospital did not fully comply with Medicare billing requirements for selected outpatient claims for E&M services billed with surgical services. These surgical services included eye injection procedures.

Our current audit covered \$279,115 in Medicare payments, consisting of \$180,910 to the Hospital for 2,871 outpatient hospital E&M services and \$98,205 to its physicians for 2,649 corresponding E&M services. The services had dates of service in calendar years (CY) 2008 through 2010.

OBJECTIVE

Our objective was to determine whether the Hospital and its physicians complied with Medicare requirements for separately billable E&M services related to outpatient eye injection procedures for CYs 2008 through 2010.

SUMMARY OF FINDINGS

The Hospital and its physicians did not always comply with Medicare requirements for separately billable E&M services related to outpatient eye injection procedures. The Hospital correctly billed for 15 of the 100 E&M services that we sampled. However, the Hospital incorrectly billed for the remaining 85 services. The incorrect billing resulted in overpayments totaling \$8,063.

Based on these sample results, we estimated that the Hospital and its physicians received overpayments totaling \$211,196 for CYs 2008 through 2010. The Hospital and its physicians were not eligible for the additional E&M payments since the services that the physician performed were not significant, separately identifiable, and above and beyond the usual preoperative work of the eye injection procedure. Overpayments occurred because the Hospital had inadequate billing system controls over billing E&M services related to outpatient eye injection procedures, and the Hospital's physicians, who performed the eye injection procedures, did not fully understand the Medicare requirements for separately billable E&M services.

RECOMMENDATIONS

We recommend that the Hospital:

- refund to the Medicare contractor \$211,196 in estimated overpayments,
- strengthen controls in the billing system to ensure full compliance with Medicare requirements, and
- strengthen its education to physicians regarding separately billable E&M services related to eye injection procedures.

FLETCHER ALLEN HEALTH CARE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the Hospital concurred with our findings and recommendations. The Hospital stated that it (1) will refund the overpayments to the Medicare contractor, (2) has strengthened controls to comply with Medicare requirements, and (3) has strengthened its education to physicians. The Hospital's comments are included in their entirety as Appendix C.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Evaluation and Management Services Performed With a Surgical Procedure	1
Eye Injection Procedures	1
Fletcher Allen Health Care, Inc.	1
Prior Office of Inspector General Review.	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective.....	2
Scope.....	2
Methodology.....	2
FINDINGS AND RECOMMENDATIONS	3
INCORRECTLY BILLED EVALUATION AND MANAGEMENT SERVICES	4
Medicare Requirements	4
Results of Sample	4
Estimate of Overpayments.....	5
RECOMMENDATIONS	5
FLETCHER ALLEN HEALTH CARE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	5
APPENDIXES	
A: SAMPLE DESIGN AND METHODOLOGY	
B: SAMPLE RESULTS AND ESTIMATES	
C: FLETCHER ALLEN HEALTH CARE COMMENTS	

INTRODUCTION

BACKGROUND

Medicare Part B reimburses hospitals and physicians for certain eye injection procedures administered to program beneficiaries when the procedures are performed in hospital outpatient settings. In addition to the reimbursement for the injection procedure, hospitals and physicians may be eligible for an additional payment for a separate evaluation and management (E&M) service. The additional payment reimburses (1) hospitals for overhead expenses associated with furnishing E&M services to program beneficiaries when the services are performed in hospital outpatient settings and (2) physicians for their professional E&M services related to medical and surgical procedures they provide in hospital outpatient settings.

The Centers for Medicare & Medicaid Services (CMS) contracts with Medicare contractors to, among other things, process and pay claims submitted by hospitals.¹

E&M services are visits and consultations furnished by physicians to new or established patients. During visits, the physician evaluates the patient by using the presenting illness and clinical judgment regarding the patient's condition to determine the options available to manage the illness. An E&M service has three required elements in which the physician must (1) review the history of the illness with the patient, (2) examine the patient, and (3) make a medical decision to manage the illness.

Evaluation and Management Services Performed With a Surgical Procedure

The *Medicare Claims Processing Manual*, Pub. No. 100-04, chapter 12, section 30.6.6(B), states that a Medicare contractor pays for an E&M service that is significant, separately identifiable, and above and beyond the usual preoperative work of the eye injection procedure.

Eye Injection Procedures

Certain eye conditions are treated by an eye injection procedure. For example, wet age-related macular degeneration, which is the leading cause of severe vision loss in people over the age of 65 in the United States, can be treated by a physician administering drugs via intravitreal injection.

Fletcher Allen Health Care, Inc.

Fletcher Allen Health Care, Inc. (the Hospital), is a 419-bed teaching hospital located in Burlington, Vermont. The Hospital bills the Medicare contractor for the overhead associated with outpatient medical services performed at the Hospital and bills on behalf of its physicians for the professional services that they perform in the Hospital's outpatient settings.

¹ Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, required CMS to transfer the functions of fiscal intermediaries and carriers to Medicare administrative contractors (MAC) between October 2005 and October 2011. Most, but not all, of the MACs are fully operational; for jurisdictions where the MACs are not fully operational, the fiscal intermediaries and carriers continue to process claims. For the purposes of this report, the term "Medicare contractor" means the fiscal intermediary, carrier, or MAC, whichever is applicable.

Prior Office of Inspector General Review

Our current review is the result of findings identified in a previous Office of Inspector General (OIG) review at the Hospital that was part of a series of OIG reviews of Medicare payments to hospitals for selected claims for inpatient and outpatient services. In June 2011, we issued a report entitled *Medicare Compliance Review of Fletcher Allen Health Care for Calendar Years 2008 and 2009* (A-01-10-00527). We found that the Hospital did not fully comply with Medicare billing requirements for selected outpatient claims for E&M services billed with surgical services. These surgical services included eye injection procedures.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the Hospital and its physicians complied with Medicare requirements for separately billable E&M services related to outpatient eye injection procedures for calendar years (CY) 2008 through 2010.

Scope

Our current audit covered \$279,115 in Medicare payments, consisting of \$180,910 to the Hospital for 2,871 outpatient hospital E&M services and \$98,205 to its physicians for 2,649 corresponding E&M services. These services had dates of service in CYs 2008 through 2010.

We focused our review on E&M services related to outpatient eye injection procedures, which we identified during and as a result of our prior OIG review at the Hospital.

We evaluated compliance with billing requirements but did not use focused medical review to determine whether the services were medically necessary.

We limited our review of the Hospital's internal controls to those applicable to billing E&M services with eye injection procedures because our objective did not require an understanding of all internal controls over billing E&M services with surgical procedures. Our review enabled us to establish reasonable assurance of the authenticity and accuracy of the data obtained from the National Claims History file, but we did not assess the completeness of the file.

We conducted our fieldwork at the Hospital in July 2011.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- extracted the Hospital and physician outpatient paid claim data from CMS's National Claims History file for CYs 2008 through 2010;

- used computer matching to identify E&M services billed with eye injection procedures;
- selected a simple random sample of 100 outpatient E&M services, some of which included corresponding physician services, from the sampling frame of services that were potentially billed incorrectly (Appendix A), and for the 100 services, we:
 - reviewed available data from CMS’s Common Working File to determine whether the services had been cancelled or adjusted,
 - reviewed the itemized bills and medical record documentation provided by the Hospital to support the services,
 - requested that the Hospital conduct its own review of the services to determine whether they were billed correctly, and
 - discussed the incorrectly billed services with Hospital officials to determine the underlying causes of noncompliance with Medicare requirements;
- discussed selected E&M services with the Medicare contractor;
- reviewed the Hospital’s procedures for billing E&M services with eye injection procedures;
- determined the overpayments for the sampled services;
- estimated the total value of overpayments in the sampling frame; and
- discussed the results of our review with Hospital officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATIONS

The Hospital and its physicians did not always comply with Medicare requirements for separately billable E&M services related to outpatient eye injection procedures. The Hospital correctly billed for 15 of the 100 E&M services that we sampled. However, the Hospital incorrectly billed for the remaining 85 services. The incorrect billing resulted in overpayments totaling \$8,063.

Based on these sample results, we estimated that the Hospital and its physicians received overpayments totaling \$211,196 for CYs 2008 through 2010. The Hospital and its physicians were not eligible for the additional E&M payments since the services that the physician

performed were not significant, separately identifiable, and above and beyond the usual preoperative work of the eye injection procedure. Overpayments occurred because the Hospital had inadequate billing system controls over billing E&M services related to outpatient eye injection procedures, and the Hospital's physicians, who performed the eye injection procedures, did not fully understand the Medicare requirements for separately billable E&M services.

INCORRECTLY BILLED EVALUATION AND MANAGEMENT SERVICES

Medicare Requirements

The *Medicare Claims Processing Manual*, Pub. No. 100-04, chapter 12, section 30.6.6(B), states that a Medicare contractor pays for an E&M service that is significant, separately identifiable, and above and beyond the usual preoperative work of the eye injection procedure.

Results of Sample

The Hospital and its physicians did not always comply with Medicare requirements for separately billable E&M services related to outpatient eye injection procedures. We sampled 100 E&M services valued at \$9,695 and 15 were correctly billed. However, the remaining 85 were incorrectly billed. The Hospital and its physicians were not eligible for the additional E&M payments since the services that the physician performed were not significant, separately identifiable, and above and beyond the usual preoperative work of the eye injection procedure.

Example: Incorrectly Billed E&M Service

A beneficiary arrived at the Hospital for an outpatient eye injection procedure on January 19, 2010. The physician performed the procedure, and the Hospital correctly billed Medicare and received payments totaling \$310 (\$190 for the Hospital and \$120 for its physician).

In addition, on January 19, 2010, the Hospital billed Medicare for separate E&M services and received additional payments totaling \$80 (\$61 for the Hospital and \$19 for its physician). The Hospital and its physician were not eligible for the additional E&M payments since the services that the physician performed were not significant, separately identifiable, and above and beyond the usual preoperative work of the eye injection procedure. As a result, the Hospital and its physician received overpayments totaling \$80.

The Hospital attributed the billing errors to inadequate billing system controls over billing E&M services related to outpatient eye injection procedures, and the Hospital's physicians, who performed the eye injection procedures, did not fully understand the Medicare requirements for separately billable E&M services. Specifically, the Hospital stated that its physicians incorrectly believed that the care they provided allowed for separately billable E&M services. However, the care was part of the usual preoperative work of the eye injection procedure.

As a result of the 85 incorrectly billed E&M services, the Hospital and its physicians received overpayments totaling \$8,063.

Estimate of Overpayments

Based on these sample results, we estimated that the Hospital and its physicians received overpayments totaling \$211,196 (\$143,531 for the Hospital and \$67,665 for its physicians) (Appendix B) for CYs 2008 through 2010.

RECOMMENDATIONS

We recommend that the Hospital:

- refund to the Medicare contractor \$211,196 in estimated overpayments,
- strengthen controls in the billing system to ensure full compliance with Medicare requirements, and
- strengthen its education to physicians regarding separately billable E&M services related to eye injection procedures.

FLETCHER ALLEN HEALTH CARE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the Hospital concurred with our findings and recommendations. The Hospital stated that it (1) will refund the overpayments to the Medicare contractor, (2) has strengthened controls to comply with Medicare requirements, and (3) has strengthened its education to physicians. The Hospital's comments are included in their entirety as Appendix C.

APPENDIXES

APPENDIX A: SAMPLE DESIGN AND METHODOLOGY

POPULATION

The population consisted of Fletcher Allen Health Care's (the Hospital) calendar years 2008 through 2010 Medicare outpatient claims that contained line items for evaluation and management (E&M) services billed with an eye injection procedure (billing code 67028).

SAMPLING FRAME

The sampling frame consisted of 2,871 E&M services related to outpatient eye injection procedures. Each service contained an outpatient line item for an E&M service billed by the Hospital, some of which included a matching Part B physician service line item for an E&M service billed by the Hospital on behalf of its physicians. There were 2,871 outpatient services with a total line paid amount of \$180,910 and 2,649 physician services with a total line paid amount of \$98,205. Not every outpatient service had a matching physician service.

SAMPLE UNIT

The sample unit was an E&M service.

SAMPLE DESIGN

We used a simple random sample.

SAMPLE SIZE

We selected a sample of 100 E&M services.

SOURCE OF RANDOM NUMBERS

We generated the random numbers with the Office of Inspector General, Office of Audit Services (OAS), statistical software.

METHOD OF SELECTING SAMPLED ITEMS

We consecutively numbered the sampling frame. After generating 100 random numbers, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OAS statistical software to estimate the dollar value of overpayments.

APPENDIX B: SAMPLE RESULTS AND ESTIMATES

Sample Results

Evaluation and Management Services	Frame Size	Value of Frame	Sample Size	Value of Sample	Services With Overpayments	Value of Overpayments
Hospital	2,871	\$180,910	100	\$6,410	85	\$5,390
Corresponding Physician*		\$98,205		\$3,285	75	\$2,673
Totals		\$279,115		\$9,695		\$8,063

*We reviewed 100 of the 2,871 outpatient hospital E&M services in the sampling frame, some of which included a corresponding Part B physician service.

Estimated Value of Overpayments
(Limits Calculated for a 90-Percent Confidence Interval)

	Outpatient Hospital Overpayments	Corresponding Physician Overpayments
Point Estimate	\$154,746	\$76,745
Lower Limit	\$143,531	\$67,665
Upper Limit	\$165,961	\$85,826

APPENDIX C: FLETCHER ALLEN HEALTH CARE COMMENTS



*In alliance with
The University of Vermont*

May 8, 2012

Via UPS Next Day Delivery

Michael J. Armstrong
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Audit Services, Region 1
JFK Federal Building
15 New Sudbury Street, Room 2425
Boston MA 02203

Re: Report Number A-01-11-00515

Dear Mr. Armstrong:

I am writing to provide comments on behalf of Fletcher Allen Health Care (Fletcher Allen) to the draft report entitled "Fletcher Allen Health Care Did Not Always Bill Correctly for Evaluation and Management Services Related to Eye Injection Procedures". Fletcher Allen concurs with the report findings and has additional comments, below.

As noted in the draft report, the Office of Inspector General (OIG) Office of Audit Services reviewed a sample of 100 evaluation and management (E&M) services provided with eye injection procedures during calendar years 2008 through 2010. The OIG, as well as Fletcher Allen certified professional coders, reviewed the medical records associated with the 100 claims. The OIG concluded, and Fletcher Allen concurs, that the documentation did not support a claim for a separate E&M service in 85 of the 100 records reviewed. These findings were then extrapolated to all E&M procedures provided with an eye injection during calendar years 2008 - 2010.

The billing errors occurred because the providers believed in good faith that the care they provided included a separately billable E&M service. In all of the sampled claims, the provider not only assessed and prepared the patient for the eye injection and provided the injection, he or she also examined the patient's other eye and assessed the potential effects of the patient's other conditions, such as diabetes and hypertension, on that eye. The providers feel that this approach promotes efficient and high quality medical care, and likely reduces the need for additional visits. On further review of these claims by certified coders, however, Fletcher Allen recognizes that the documentation in 85 claims did not support a separately billable E&M service because one component of the E&M service (medical decision making) was not documented regarding the eye not receiving the injection.

Our responses to the OIG's recommendations are set forth below.

1. Refund to the Medicare contractor overpayments of \$211,196.

We will refund the overpayments to the Medicare Administrative Contractor (MAC). We understand that the MAC will issue a demand letter with repayment instructions.

2. Strengthen controls in the billing system to ensure full compliance with Medicare requirements.

Fletcher Allen has strengthened controls in its billing system. We have instituted an edit to hold any claim for an E&M service billed with an intravitreal injection. A certified coder releases the claim only if, after reviewing the documentation associated with the E&M service, he or she confirms that it supports the claim.

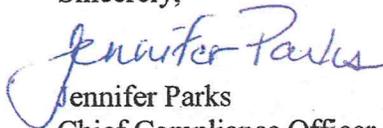
3. Strengthen education to physicians regarding separately billable E&M services related to eye injection procedures.

We have provided and will continue to provide additional education to physicians related to billing a separate E&M service with a procedure.

Fletcher Allen will continue to monitor and audit claims and institute additional controls if necessary.

Thank you for the opportunity to comment on the draft report. Please contact me if you need any additional information.

Sincerely,



Jennifer Parks
Chief Compliance Officer
Fletcher Allen Health Care
Jennifer.Parks@vtmednet.org